WORKERS' COMPENSATION ADVISORY COUNCIL

MINUTES ~~ AUGUST 26, 1999 MEETING [1:00 P.M.]
710 JAMES ROBERTSON PARKWAY
HEARING ROOM, FIRST FLOOR
ANDREW JOHNSON TOWER
NASHVILLE, TENNESSEE

The meeting was called to order by Mr. Dale Sims, Treasurer's Designee.

Voting members in attendance:
Mr. Jack Gatlin
Mr. James G. Neeley
Mr. Bob Pitts
Mr. Othal Smith, Jr.
Mr. Steve Turner
Mr. Carter Witt

Nonvoting members in attendance:
Ms. Jacqueline B. Dixon
Mr. Tony Farmer
Ms. Abbie Hudgens
Mr. Jerry Mayo

Ex officio members in attendance:
Ms. Sue Ann Head, Workers' Compensation Administrator
Department of Labor and Workforce Development
[designee for Commissioner Michael E. Magill]

Also present:
M. Linda Hughes, Executive Director

The minutes of the July 8, 1999, Workers' Compensation Advisory Council meeting were unanimously approved.

NEW BUSINESS

A. DEPARTMENT OF COMMERCE & INSURANCE PRESENTATION RE: CURRENT WORKERS' COMPENSATION MARKET AND STATUS OF LOSS COST SYSTEM AND IMPACT ON ASSIGNED RISK PLAN.

Mr. Benn Daley made the presentation on behalf of the Department of Commerce & Insurance. The Department had previously submitted to the Advisory Council a written report concerning the assigned risk plan and the focus of the oral presentation was the loss cost system.

Mr. Daley began his presentation by discussing the overall model of the rating system in Tennessee which includes: (1) the assigned risk plan, (2) the standard market [synonymous with "voluntary market"], (3) self-insured pools, (4) large deductible plans and (5) self-insurance. The first three are guaranteed cost plans and are affected directly by the loss cost and multiplier systems. The latter two are loss based plans and are affected indirectly by the loss cost system.

He then explained the relationship between loss costs, loss cost multipliers and the rating system. The loss cost is the portion of the rate representing benefits paid and cost of administering the benefits [loss adjustment expense]. A loss cost is filed and approved annually for each employer type/class. All insurance companies must use the current approved loss cost. The loss cost multiplier is a factor applied to the loss cost to include insurance company expenses (commission, taxes, investment income, etc.) and company-wide deviation from loss costs. Each insurance company may have only one loss cost multiplier applied uniformly to all loss costs. Loss costs vary between employer type, but do not vary between insurance companies. The loss cost multipliers vary between insurance companies, but do not vary between employer types which are insured by the same carrier. While loss costs and the loss cost multipliers are significant rating elements, they are not the only rating elements which are applied to determine the ultimate premium. The other significant rating elements which exist include the experience modification factor, schedule rating [which can vary +/- 25%], and premium discount, the percentage of which will depend upon the premium amount. There is no established criteria by which a carrier must establish the schedule rating; it is totally discretionary with each carrier. According to Mr. Daley, it is important for the carrier to have the flexibility to set an appropriate premium at the level which the underwriter feels should be given to the specific employer.]

The system which existed in Tennessee prior to the adoption of the current loss cost system was an state administered rating system in which all insurance carriers in the voluntary market were required to use the same loss cost multiplier as was used for the assigned risk plan. The effective loss cost would be higher in the assigned risk plan because of the required surcharge of 25% for those insureds who were experience rated. In the voluntary market, the carriers had to use the same loss cost rate as established for the assigned risk market; however, the effective loss cost could vary +/- 25% because of the schedule rating factor which the carrier could apply to the premium calculation. Therefore, in the former administered pricing system, there was some flexibility in the rates for the voluntary market from carrier to carrier.

In the current system, the surcharge for those insureds who are experience rated is still applicable to the assigned risk market. In the current voluntary market, there is more pricing flexibility for the carriers because each is allowed to file its own loss cost multiplier which is then modified by other rating factors applied to a specific insured. This results in an effective loss cost multiplier that may be either higher or lower than the filed multiplier, depending on whether the risk had a credit or debit applied in the schedule rating portion of the premium computation.

In the current system, the multiplier ranges for the assigned risk plan are 1.35-1.69. The range in the standard market is 0.59-2.13 and for the self insured pool the range is 0.73-1.70. There are no multipliers applicable for the large deductible plans and the self insureds.

The overall premium level dropped from 1996 to 1998. In 1996, the total premium written was 1,220 billion; in 1997 it was 1,109 billion and in 1998 it was 979 million. Mr. Daley stated when the insurance market is more competitive, the employers who are self-insured or have deductible plans will migrate into the voluntary market or the pool market. As competition diminishes and the cost of insurance increases, the reverse will happen. Since 1996, the premiums for the self insured employers have decreased from 234 million to 183 million; the deductible premiums have decreased from 272 million to 213 million; the self insured groups [pools] have decreased from 53 million to 37 million; the assigned risk plan has decreased from 199 million to 21 million and the voluntary market has increased from 462 million to 525 million.

Mr. Daley also presented information showing the market share of Tennessee workers' compensation premium written by loss cost multiplier range and the number of carriers in each range. The information revealed more premium written at the multiplier ranges less than 1.2 in 1998 than in 1997; for the multiplier ranges of 1.2 and greater the reverse was true - there was less premium written in 1998 at the larger ranges than in 1997. The conclusion to be drawn from this data is an increasingly competitive market from 1997 to 1998 [i.e., more premium written at lower multipliers].

Also presented was data comparing the loss ratios by loss cost multiplier range. The data indicated loss ratios in all but one of the ranges increased from 1997 to 1998 and in some cases the increase was dramatic. For the future, this probably indicates the market is turning - that the amount of premium written at the lower multipliers will decrease for 1999. The "break-even" point for profitability in workers' compensation is a combined loss ratio [losses and expenses] of approximately 113%-115% of earned premium. Statewide in 1997, the loss ratio was approximately 50%; in 1998 it was approximately 88%. For the total market this data does not indicate a problem; however, if the loss ratios of some individual companies are consistently over 113%, this could indicate future problems.

Mr. Daley also provided to the Advisory Council with a list of insurance companies which have requested approval of a loss cost multiplier that deviated more than 20% from the approved loss cost. TCA 56-5-322, enacted in 1997 [sunset date of July 1, 1999], required pre-approval of loss cost multipliers which deviated in excess of 20%. There were 17 companies which filed loss cost multipliers in excess of a 20% deviation prior to the law's enactment. Seventeen companies filed requests for multiplier deviations in excess of 20% during the period where pre-approval was required. Since July 1, 1999, five companies have filed multipliers exceeding a 20% deviation from the loss cost and no pre-approval was necessary. Mr. Daley expressed concern that these filings have not received review to determine if the information on which the filing was based was accurate, credible or reasonable. He indicated there has been a tremendous difference in the quality of information supplied by the companies before and after the pre-approval process.

Mr. Sims noted the tiered multiplier rating system and the schedule rating process allows a company more flexibility in its pricing of insurance. Mr. Mayo pointed out that insurance groups which are comprised of several insurance companies file multiple loss cost multipliers so they are able to segregate the risks and differentiate between and among insureds and to reward those businesses which are good risks.

Mr. Pitts requested Mr. Daley provide, by the next Advisory Council meeting, data reflecting a company's original loss cost multiplier, the requested change in the multiplier and the multiplier which was approved by the Department. Mr. Mayo requested the same information for the self-insured pools. In addition, Mr. Pitts expressed concern that the cost of workers' compensation insurance in Tennessee is rising again and as a result smaller carriers are withdrawing from Tennessee. He requested additional data on the smaller carriers which wrote writing workers' compensation coverage in Tennessee for the years of 1997 and 1998. In addition, Mr. Pitts requested the Advisory Council review, at a future date, two issues: (1) the sunsetting of the law requiring pre-approval process for loss cost multiplier deviations in excess of 20% and (2) the issue of allowing large insurance companies [which have multiple subsidiary companies] to file more than one loss cost multiplier and not allowing a single line company to establish different multipliers for different risks.

In conclusion, Mr. Daley commented that the recent premium reductions are a product of other workers' compensation reform measures, external factors and the rating system change. The loss cost rating system is more flexible, providing more gradual changes in pricing and more representative pricing. Mr. Daley also suggested that if it is determined there is a need for a statute requiring pre-approval of certain loss cost multipliers that the determinant be the loss cost multiplier itself and not the amount of deviation. This is because the multiplier is the value of ultimate consequence, it will provide more credible filings and determining filing status ["prior approval" or "use and file"] will be objective. He also noted if such a law is enacted, the retroactive application to all current loss cost multiplier filings should be considered. A company is not required to file a loss cost multiplier filing each year; however, the multiplier on file must be applied to the current approved loss cost.

The Advisory Council thanked Mr. Daley for his presentation and commended him on the thoroughness of both his oral report and the written assigned risk plan report submitted to the Advisory Council.

B. REVIEW AND DISCUSSION OF REPORTS RECEIVED REGARDING ASSIGNED RISK PLAN

Various groups had previously been requested to submit written reports/comments concerning the assigned risk plan and were invited to attend the August meeting of the Advisory Council. The reports submitted were supplied to the members of the Advisory Council prior to the meeting. At the meeting the following representatives of entities which had submitted a written report were given an opportunity to briefly summarize their position: Gif Thornton [Alliance of American Insurers]; Tom Redel [Aon Risk Services]; Cathy Booth [NCCI]; David Williams [Insurors of Tennessee].

OLD BUSINESS

There was no old business to come before the Advisory Council.

ADDITIONAL ISSUES/COMMENTS OF MEMBERS

Mr. Sims reported to the Advisory Council that the Joint Oversight Committee on Workers' Compensation met in August to discuss the issue of non-compliant employers and employees who sustain injuries during periods of non-compliance. Several groups testified before the Committee and presented suggestions to the Oversight Committee. The Oversight Committee has requested the Workers' Compensation Advisory Council to submit its suggestions regarding this issue by December, 1999. The Department of Labor and Workforce Development has been requested to prepare its recommendations and to present a draft of a proposal to the Advisory Council for its consideration at a later meeting. The Advisory Council members were invited to contact Linda Hughes with any suggestions or ideas concerning the issue.

The next meeting was scheduled for September 23, 1999. Without objection, the meeting was adjourned at 3:25 p.m.